

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 22, 2006

AMENDED IN SENATE JANUARY 19, 2006

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE APRIL 19, 2005

**SENATE BILL**

**No. 729**

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**Introduced by Senators Simitian and Perata**

February 22, 2005

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An act to amend Sections 13225, 13267, 13268, and 13323 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 729, as amended, Simitian. Water quality.

(1) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board (state board) and the California regional water quality control boards (regional boards) are the principal state agencies with primary authority over water quality matters. The act authorizes a regional board to investigate the quality of state waters, and grants to a regional board certain authority in connection with those investigative functions. The act authorizes a regional board to administratively impose civil liability in connection with violations of certain water quality provisions.

This bill would authorize the state board to carry out this authority if, after consulting with the appropriate regional board, the state board determines that it will not duplicate the efforts of the regional board.

(2) The act requires a regional board to obtain coordinated action in water quality control, including the prevention and abatement of water pollution and nuisance.

~~The~~ *This* bill would require that each regional board coordinate with the state board and other state agencies with respect to water quality matters and report rates of compliance with the act. *The bill would require each regional board to submit to the state board copies of any regional board decision and, at the state board’s request, copies of the record of any official action taken by the regional board or its executive officer.* The bill would require the state board and each regional board to post on the Internet certain water quality-related information, including, with regard to a regional board, a summary list of enforcement actions undertaken by that regional board and the dispositions of those actions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13225 of the Water Code is amended to  
2 read:

3 13225. Each regional board, with respect to its region, shall  
4 do all of the following:

5 (a) Coordinate with the state board and other regional boards,  
6 as well as other state agencies with responsibility for water  
7 quality, with respect to water quality control matters, including  
8 the prevention and abatement of water pollution and nuisance;  
9 ~~with the goal of achieving water quality standards in all water of~~  
10 ~~the state by the earliest feasible date..~~

11 (b) Encourage and assist in waste disposal programs, as  
12 needed and feasible, and upon application of any person, advise  
13 the applicant of the condition to be maintained in any disposal  
14 area or receiving waters into which the waste is being discharged.

15 (c) Require as necessary any state or local agency to  
16 investigate and report on any technical factors involved in water  
17 quality control or to obtain and submit analyses of water;  
18 provided that the burden, including costs, of such reports shall  
19 bear a reasonable relationship to the need for the report and the  
20 benefits to be obtained therefrom.

1 (d) Request enforcement by appropriate federal, state and local  
2 agencies of their respective water quality control laws.

3 (e) Report rates of compliance with the requirements of this  
4 division.

5 (f) Recommend to the state board projects which the regional  
6 board considers eligible for any financial assistance which may  
7 be available through the state board.

8 (g) Report to the state board and appropriate local health  
9 officer any case of suspected contamination in its region.

10 ~~(h) File with the state board copies of the record of any official  
11 action. The state board shall make this information available to  
12 the public through the state board's Internet Web site.~~

13 *(h) Submit to the state board copies of any regional board  
14 decision and, at the state board's request, copies of the record of  
15 any official action taken by the regional board or its executive  
16 officer. The state board shall make copies of regional board  
17 decisions available to the public through the state board's  
18 Internet Web site.*

19 (i) Take into consideration the effect of its actions pursuant to  
20 this chapter on the California Water Plan adopted or revised  
21 pursuant to Division 6 (commencing with Section 10000) of this  
22 code and on any other general or coordinated governmental plan  
23 looking toward the development, utilization or conservation of  
24 the water resources of the state.

25 (j) Encourage coordinated regional planning and action for  
26 water quality control.

27 (k) In consultation with the state board, identify and post on  
28 the Internet a summary list of all enforcement actions undertaken  
29 by that regional board and the dispositions of those actions,  
30 including any fines assessed. This list shall be updated at least  
31 quarterly.

32 SEC. 2. Section 13267 of the Water Code is amended to read:

33 13267. (a) A regional board, in establishing or reviewing any  
34 water quality control plan or waste discharge requirements, or in  
35 connection with any action relating to any plan or requirement  
36 authorized by this division, may investigate the quality of any  
37 waters of the state within its region.

38 (b) (1) In conducting an investigation specified in subdivision  
39 (a), the regional board may require that any person who has  
40 discharged, discharges, or is suspected of having discharged or

1 discharging, or who proposes to discharge waste within its  
2 region, or any citizen or domiciliary, or political agency or entity  
3 of this state who has discharged, discharges, or is suspected of  
4 having discharged or discharging, or who proposes to discharge,  
5 waste outside of its region that could affect the quality of waters  
6 within its region shall furnish, under penalty of perjury, technical  
7 or monitoring program reports which the regional board requires.  
8 The burden, including costs, of these reports shall bear a  
9 reasonable relationship to the need for the report and the benefits  
10 to be obtained from the reports. In requiring those reports, the  
11 regional board shall provide the person with a written  
12 explanation with regard to the need for the reports, and shall  
13 identify the evidence that supports requiring that person to  
14 provide the reports.

15 (2) When requested by the person furnishing a report, the  
16 portions of a report that might disclose trade secrets or secret  
17 processes may not be made available for inspection by the public  
18 but shall be made available to governmental agencies for use in  
19 making studies. However, these portions of a report shall be  
20 available for use by the state or any state agency in judicial  
21 review or enforcement proceedings involving the person  
22 furnishing the report.

23 (c) In conducting an investigation pursuant to subdivision (a),  
24 the regional board may inspect the facilities of any person to  
25 ascertain whether the purposes of this division are being met and  
26 waste discharge requirements are being complied with. The  
27 inspection shall be made with the consent of the owner or  
28 possessor of the facilities or, if the consent is withheld, with a  
29 warrant duly issued pursuant to the procedure set forth in Title 13  
30 (commencing with Section 1822.50) of Part 3 of the Code of  
31 Civil Procedure. However, in the event of an emergency  
32 affecting the public health or safety, an inspection may be  
33 performed without consent or the issuance of a warrant.

34 (d) The state board or a regional board may require any  
35 person, including a person subject to a waste discharge  
36 requirement under Section 13263, who is discharging, or who  
37 proposes to discharge, wastes or fluid into an injection well, to  
38 furnish the state board or regional board with a complete report  
39 on the condition and operation of the facility or injection well, or  
40 any other information that may be reasonably required to

1 determine whether the injection well could affect the quality of  
2 the waters of the state.

3 (e) As used in this section, “evidence” means any relevant  
4 evidence on which responsible persons are accustomed to rely in  
5 the conduct of serious affairs, regardless of the existence of any  
6 common law or statutory rule which might make improper the  
7 admission of the evidence over objection in a civil action.

8 (f) The state board may carry out the authority granted to a  
9 regional board pursuant to this section if, after consulting with  
10 the regional board, the state board determines that it will not  
11 duplicate the efforts of the regional board.

12 SEC. 3. Section 13268 of the Water Code is amended to read:

13 13268. (a) (1) Any person failing or refusing to furnish  
14 technical or monitoring program reports as required by  
15 subdivision (b) of Section 13267, or failing or refusing to furnish  
16 a statement of compliance as required by subdivision (b) of  
17 Section 13399.2, or falsifying any information provided therein,  
18 is guilty of a misdemeanor, and may be liable civilly in  
19 accordance with subdivision (b).

20 (2) Any person who knowingly commits any violation  
21 described in paragraph (1) is subject to criminal penalties  
22 pursuant to subdivision (e).

23 (b) (1) Civil liability may be administratively imposed by a  
24 regional board in accordance with Article 2.5 (commencing with  
25 Section 13323) of Chapter 5 for a violation of subdivision (a) in  
26 an amount which shall not exceed one thousand dollars (\$1,000)  
27 for each day in which the violation occurs.

28 (2) Civil liability may be imposed by the superior court in  
29 accordance with Article 5 (commencing with Section 13350) and  
30 Article 6 (commencing with Section 13360) of Chapter 5 for a  
31 violation of subdivision (a) in an amount which shall not exceed  
32 five thousand dollars (\$5,000) for each day in which the violation  
33 occurs.

34 (c) Any person discharging hazardous waste, as defined in  
35 Section 25117 of the Health and Safety Code, who knowingly  
36 fails or refuses to furnish technical or monitoring program reports  
37 as required by subdivision (b) of Section 13267, or who  
38 knowingly falsifies any information provided in those technical  
39 or monitoring program reports, is guilty of a misdemeanor, may

1 be civilly liable in accordance with subdivision (d), and is subject  
2 to criminal penalties pursuant to subdivision (e).

3 (d) (1) Civil liability may be administratively imposed by a  
4 regional board in accordance with Article 2.5 (commencing with  
5 Section 13323) of Chapter 5 for a violation of subdivision (c) in  
6 an amount which shall not exceed five thousand dollars (\$5,000)  
7 for each day in which the violation occurs.

8 (2) Civil liability may be imposed by the superior court in  
9 accordance with Article 5 (commencing with Section 13350) and  
10 Article 6 (commencing with Section 13360) of Chapter 5 for a  
11 violation of subdivision (c) in an amount which shall not exceed  
12 twenty-five thousand dollars (\$25,000) for each day in which the  
13 violation occurs.

14 (e) (1) Subject to paragraph (2), any person who knowingly  
15 commits any of the violations set forth in subdivision (a) or (c)  
16 shall be punished by a fine that does not exceed twenty-five  
17 thousand dollars (\$25,000).

18 (2) Any person who knowingly commits any of the violations  
19 set forth in subdivision (a) or (c) after a prior conviction for a  
20 violation set forth in subdivision (a) or (c) shall be punished by a  
21 fine that does not exceed twenty-five thousand dollars (\$25,000)  
22 for each day of the violation.

23 (f) (1) Notwithstanding any other provision of law, fines  
24 collected pursuant to subdivision (e) shall be deposited in the  
25 Waste Discharge Permit Fund and separately accounted for in  
26 that fund.

27 (2) The funds described in paragraph (1) shall be expended by  
28 the state board, upon appropriation by the Legislature, to assist  
29 regional boards, and other public agencies with authority to clean  
30 up waste, or abate the effects of the waste, in cleaning up or  
31 abating the effects of the waste on waters of the state or for the  
32 purposes authorized in Section 13443.

33 (g) The state board may carry out the authority granted to a  
34 regional board pursuant to this section if, after consulting with  
35 the regional board, the state board determines that it will not  
36 duplicate the efforts of the regional board.

37 SEC. 4. Section 13323 of the Water Code is amended to read:

38 13323. (a) Any executive officer of a regional board may  
39 issue a complaint to any person on whom administrative civil  
40 liability may be imposed pursuant to this article. The complaint

1 shall allege the act or failure to act that constitutes a violation of  
2 law, the provision of law authorizing civil liability to be imposed  
3 pursuant to this article, and the proposed civil liability.

4 (b) The complaint shall be served by certified mail or in  
5 accordance with Article 3 (commencing with Section 415.10) of,  
6 and Article 4 (commencing with Section 416.10) of, Chapter 4 of  
7 Title 5 of Part 2 of the Code of Civil Procedure, and shall inform  
8 the party so served that a hearing before the regional board shall  
9 be conducted within 90 days after the party has been served. The  
10 person who has been issued a complaint may waive the right to a  
11 hearing.

12 (c) In proceedings under this article for imposition of  
13 administrative civil liability by the state board, the executive  
14 director of the state board shall issue the complaint and any  
15 hearing shall be before the state board, or before a member of the  
16 state board in accordance with Section 183, and shall be  
17 conducted not later than 90 days after the party has been served.

18 (d) Orders imposing administrative civil liability shall become  
19 effective and final upon issuance thereof, and are not subject to  
20 review by any court or agency except as provided by Sections  
21 13320 and 13330. Payment shall be made not later than 30 days  
22 from the date on which the order is issued. The time for payment  
23 is extended during the period in which a person who is subject to  
24 an order seeks review under Section 13320 or 13330. Copies of  
25 these orders shall be served by certified mail or in accordance  
26 with Article 3 (commencing with Section 415.10) of, and Article  
27 4 (commencing with Section 416.10) of, Chapter 4 of Title 5 of  
28 Part 2 of the Code of Civil Procedure upon the party served with  
29 the complaint and shall be provided to other persons who  
30 appeared at the hearing and requested a copy.

31 (e) Information relating to hearing waivers and the imposition  
32 of administrative civil liability, as proposed to be imposed and as  
33 finally imposed, under this section shall be made available to the  
34 public by means of the Internet.

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